

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telephone Number Requirements for IP-Enabled Services Providers	)	WC Docket No. 07-243
	)	
Local Number Portability Porting Interval and Validation Requirements	)	WC Docket No. 07-244
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues	)	
	)	
Final Regulatory Flexibility Analysis	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200

**PETITION FOR CLARIFICATION AND  
FOR LIMITED WAIVER FOR EXTENSION OF TIME**

One Communications Corp. (“One Communications”), by its attorneys and pursuant to Sections 1.429(a) and 1.3 of the Commission’s Rules,<sup>1</sup> respectfully petitions the Commission to clarify certain aspects of its *Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking* in the above-captioned dockets.<sup>2</sup> On behalf of its operating subsidiaries, One Communications also seeks a limited waiver for an extension of time until July 31, 2008, to comply with the LNP validation requirements set forth in the *Declaratory Ruling*.

With its primary focus on the delivery of a full range of telecommunications services to small to medium-sized businesses, One Communications serves markets in 16 states in the

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<sup>1</sup> See 47 C.F.R. §§ 1.429(a), 1.3.

<sup>2</sup> See *Telephone Number Requirements for IP-Enabled Services Providers*, WC Docket No. 07-243 *et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, FCC 07-188 (rel. Nov. 8, 2007) (“*Declaratory Ruling*”).

Northeast, mid-Atlantic and upper Midwest regions. It is of paramount importance for all providers, including One Communications, to effectuate consumer's choice and to adopt practices that facilitate such choice. Nonetheless, the Commission must not impose practices on the industry that oversimplify the LNP process. Otherwise, errors will be introduced into the porting process to the detriment of consumers. It is imperative for the Commission to not only streamline the LNP process but also to ensure that errors are kept to a minimum. Therefore, One Communications urges the Commission to: (1) clarify the amount of LNP data carriers may request for both validating and accomplishing simple ports; (2) clarify that a port on a loop provisioned over a UNE is not, under the Commission's definition, a simple port; and (3) grant a limited waiver and an extension of time until July 31, 2008, so that it may finish modifying its legacy system of validating port requests to comply with the Commission's requirement that LNP validation be based on the four fields specified in the *Declaratory Ruling*.

**I. THE COMMISSION SHOULD CLARIFY THAT THE FOUR FIELDS ARE TO BE USED TO VALIDATE A PORT REQUEST AND THAT A CARRIER MAY REQUEST ADDITIONAL INFORMATION TO ACCOMPLISH THE PORT**

At the outset, One Communications emphasizes that it agrees with the Commission's policy goal that customers must be able to port their numbers without impairment of the convenience of switching providers.<sup>3</sup> Potential customers of One Communications will benefit from an enhanced ability to take advantage of One Communications' services without undue delay or other hindrance. The language in the *Declaratory Ruling* however, leaves carriers uncertain regarding the level of information needed to accomplish a simple port. The Commission should therefore clarify that while LNP *validation* is based on no more than four fields for simple ports,<sup>4</sup> carriers may require information in addition to the four fields to accomplish a simple port.

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<sup>3</sup> *Id.* at ¶ 43.

<sup>4</sup> *Id.* at ¶ 48. See also Section II, *infra*, in which One Communications seeks clarification regarding the definition of "simple port."

The Commission concluded in the *Declaratory Ruling* that LNP validation should be based on no more than four fields for simple ports (*i.e.*, some wireline-to-wireline, wireless-to-wireless, and intermodal ports), and that those fields should be: (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code; and (4) pass code (if applicable). The Commission limited the number of fields required to validate a simple port to four “despite disagreement within the industry on which specific data are necessary to effectuate a port.”<sup>5</sup> The *Declaratory Ruling* however, does not provide carriers with the requisite clarity needed to both validate *and* effectuate or accomplish the simple port.

**A. The *Declaratory Ruling* Does Not Address Validation Fields for Accomplishing Ports**

The confusion stems from two ambiguous statements in the *Declaratory Ruling*. In paragraph 43, the Commission stated that “for all ports – whether intermodal, wireline-to-wireline, or wireless-to-wireless ports – the porting-out provider may not require more information from the porting-in provider than is actually reasonable to validate the port request *and* accomplish the port.”<sup>6</sup> In adopting the four fields requirement in paragraph 48, the Commission concluded that “LNP validation for simple ports should be based on no more than four fields.”<sup>7</sup> In paragraph 43 and throughout the *Declaratory Ruling*, the Commission correctly notes that there are two distinct phases carriers must undertake to port a number (*i.e.*, validation and accomplishment).<sup>8</sup>

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<sup>5</sup> *Id.* citing Petition for Declaratory Rulemaking filed by T-Mobile USA, Inc. and Sprint Nextel Corporation, CC Docket No. 95-116, at 7 (filed Dec. 20, 2006); Comcast Comments, CC Docket No. 95-116, at 6 (filed Feb. 8, 2007); Embarq Comments, CC Docket No. 95-116, at 2-4, 6 (filed Feb. 8, 2007); MetroPCS Comments, CC Docket No. 95-116, at 8 (filed Feb. 8, 2007); TWTC *et al.* Comments, CC Docket No. 95-116, at 5-7 (filed Feb. 8, 2007); Verizon Comments, CC Docket No. 95-116, at 7-8 (filed Feb. 8, 2007); T-Mobile/Sprint Nextel Reply, CC Docket No. 95-116, at 6 (filed Feb. 23, 2007); Letter from Ann D. Berkowitz, Associate Director, Verizon, to Marlene Dortch, Secretary, FCC, CC Docket No. 95-116, at 2 (dated July 27, 2007) (Verizon July 27, 2007 *Ex Parte* Letter).

<sup>6</sup> *Id.* at ¶ 43 (emphasis added).

<sup>7</sup> *Id.* at ¶ 48.

<sup>8</sup> See, e.g., *id.* at ¶¶ 42, 43, 44, 46.

Paragraph 48 of the *Declaratory Ruling* however, confusingly makes no mention of the data required for a carrier to *accomplish* the simple port. This disparity between the requirements for validation and accomplishment of simple ports will lead to unnecessary uncertainty and disputes between carriers that ultimately will have to be resolved by the Commission. Moreover, as described in greater detail below, depending on the type of entity involved in a port, simply relying on four fields to both validate and accomplish port requests will introduce both more errors into the porting process and result in consumers losing service due to inadvertent ports.

**B. Additional Data is Needed to Accomplish a Simple Port**

At bottom, and as the *Declaratory Ruling* makes clear, a porting-out carrier needs sufficient information so that a simple port is accomplished without disruption to the customer.<sup>2</sup> Without the proper data to accomplish the simple port, carriers will be put in the untenable position of making assumptions and guesses about a customer's account to complete a port, which could lead to serious consequences if the assumptions prove to be false. By way of example, without the customer's Desired Due Date/Time for the port accomplishment, the assumption would undoubtedly be made that the Old Service Provider's first available due date was being requested. If that were not an accurate assumption, the end user's current telephone service could be disconnected prematurely, prior to the New Service Provider being ready to provide service to the end user. Emergency services ("E911") would be unavailable during this timeframe with the potential for serious health and welfare issues while, in the case of a business, lost revenue could be substantial. One Communications generally agrees with the Alliance for Telecommunications Industry Solutions' ("ATIS") Ordering and Billing Forum ("OBF") Simple Port Service Request Preparation Guide which describes additional fields that have been identi-

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<sup>2</sup> *Id.* at ¶ 43.

fied and agreed by OBF members as necessary to accomplish wireline-to-wireline simple ports.<sup>10</sup> This data suggested by the OBF includes: Customer Carrier Name Abbreviation, Purchase Order Number, Version Identification, Simple Port Desired Due Date and Time, Simple Port Requisition Type, Simple Port Supplement Type, New Network Service Provider Information, Telephone Number, End User Listing Treatment, and Company Code. One Communications stresses that this is not an exhaustive list and that additional information, at the discretion of the porting-out carrier, may be required to properly accomplish a simple port.

Although One Communications was one of the many parties who opposed limiting the data used to validate a port to only four fields,<sup>11</sup> One Communications accepts the Commission's determination that a port request may be validated using only four fields and is not seeking reconsideration of that determination. So long as carriers are able to request additional information to accomplish the port, One Communications can effectuate a simple port in compliance with the *Declaratory Ruling* and execute such ports without disruption to the consumer's service. As the Commission acknowledged, there is disagreement within the industry as to what data is required to effectuate a simple port. One Communications' approach strikes an appropriate balance among the interests of all involved, particularly those parties seeking to port their number who might otherwise be forced to suffer an extended impairment of service if the port is not properly accomplished. In short, the necessity for, and the benefits of, Commission specification of a methodology for accomplishing simple ports is patent – it provides customers with certainty that their number will be ported, limits the introduction of errors into the porting process that may impair a customer's service, and avoids the filing of consumer complaints with the Commission or the relevant state regulatory agency.

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<sup>10</sup> See Letter from Thomas Goode, General Counsel, ATIS, to Dana Shaffer, Chief, Wireline Competition Bureau, FCC, WC Docket No. 07-244 (filed Jan. 16, 2008).

<sup>11</sup> See Opposition of Time Warner Telecom Inc., Cbeyond, Inc. and One Communications Corp., WC Docket No. 95-116 (filed Feb. 8, 2007).

## II. THE COMMISSION SHOULD CLARIFY THAT A PORT ON A LOOP PROVISIONED OVER A UNE IS NOT A SIMPLE PORT

The Commission has defined “simple port” as “those ports that: do not involve unbundled network elements, involve an account for a single line (porting a single line from a multi-line account is not a simple port), do not include complex switch translations (*e.g.*, Centrex or Plexar, ISDN, AIN services, remote call forwarding, multiple services on the loop), may include CLASS features such as Caller ID, and do not include a reseller. All other ports are considered ‘complex’ ports.”<sup>12</sup>

While on its face, this definition seems straightforward, there is confusion within the industry as to whether a port request associated with a service provided over a UNE actually “involves” the UNE. There are carriers within the industry, and also OBF, that claim, especially from the perspective of a new service provider, a port request associated with a service that is provided over a UNE loop does not actually “involve” the UNE. Others in the industry, like One Communications, maintain that any port request associated with a service provided over a UNE loop does, in fact, “involve” a UNE and therefore would not be considered a simple port pursuant to the Commission’s definition.

Understanding the Commission’s intent when utilizing this definition is crucial to the industry’s ability to implement LNP accurately and consistently. Without clarification of the definition of a “simple port,” the key term on which the *Declaratory Ruling* is based, providers will be left to interpret or guess, perhaps incorrectly, as to how to implement the order and utilize the process. In fact, some facility based providers may choose not to implement at all based on their interpretation of this definition, while others may attempt to port from these same providers utilizing the simple port process. One Communications does not believe this inconsistency is what the Commission had in mind in adopting the *Declaratory Ruling*. One Communications

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<sup>12</sup> *Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, n.112 (2003).

requests that the Commission clarify that whenever a carrier receives a port out request for a service provided over a UNE loop, such a port is not a “simple” port.

### **III. ONE COMMUNICATIONS REQUESTS AN EXTENSION OF TIME TO COMPLY WITH THE VALIDATION REQUIREMENTS OF THE DECLARATORY RULING**

Although One Communications has been working diligently to meet the 90-day deadline since the release of the *Declaratory Ruling*, One Communications must respectfully seek a limited waiver and extension of time until July 31, 2008, so that it may complete its current system modification to comply with the requirements of the *Declaratory Ruling*. One Communications submits that other parties have indicated that there are many carriers in need of such an extension in order to maintain the integrity of the porting process.<sup>13</sup>

#### **A. The Waiver Will Serve the Public Interest**

The Commission’s rules expressly provide for waiver if good cause is first established. In addition, the Commission may waive specific requirements where, “in view of unique or unusual factual circumstances ..., application of the rule would be inequitable, unduly burdensome, or contrary to the public interest, or [where] the applicant has no reasonable alternative.”<sup>14</sup> The courts have found that waiver is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest”<sup>15</sup> or when the rule, as applied, results in an outcome that erodes a Commission policy.<sup>16</sup> As shown below, these standards are met in this case, and One Communications’ request should be expeditiously granted.

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<sup>13</sup> Comments of the United States Telecom Association, WC Docket No. 07-244 *et al.*, at 2 (filed Jan. 30, 2008).

<sup>14</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>15</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)) (explaining the necessary criteria to establish good cause for a waiver).

<sup>16</sup> See *KCST-TV v. FCC*, 699 F.2d 1185, 1193 (D.C. Cir. 1983) (agreeing with the Commission’s holding that “[a] party demonstrating with persuasive evidence the invalidity of this underlying premise is entitled to waiver,” citing *OkeAirCo, Inc.*, 44 R.R.2d 166, 168-69 (1978)).

Most importantly, an extension of time until July 31, 2008, will afford One Communications sufficient time to modify, fully test, and properly train its staff on the four-field validation process for simple ports. Under One Communications' current system, which is consistent with ATIS OBF industry standards, One Communications currently validates a port request using an almost entirely different set of data fields than the four fields adopted in the *Declaratory Ruling* for certain entities. Indeed, of the four fields exclusively mandated by the new rules, the 10-digit telephone number and 5-digit zip code are the only common validation fields.<sup>17</sup> Other data fields One Communications currently uses to validate include: End User Name, and End User Service Address (inclusive of number, street name, city, state and 5-digit zip code) This allows One Communications to confirm that the new service provider has identified the correct services to be ported for the relevant End User.

**B. The *Declaratory Ruling* Requires Carriers to Collect More Information from Certain End Users**

The data maintained by One Communications concerning its interconnected VoIP provider partners is currently inadequate to validate a port on more than the telephone number field. This is due to One Communications' current database structure as well as a lack of data provided by interconnected VoIP provider(s) as such information was, until the *Declaratory Ruling*, irrelevant. One Communications maintains a master database record specific to the actual interconnected VoIP provider that includes the interconnected VoIP provider's billing address, account number assigned by One Communications and other pertinent information. The information pertaining to the interconnected VoIP provider's specific end user customer currently includes only the telephone numbers of the particular end user customers. Records for interconnected VoIP providers include only those telephone numbers that are in use by an end user, either from blocks assigned to the provider by One Communications or those telephone numbers

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<sup>17</sup> But see Section III.B, *infra*, concerning certain end users.



that have been ported in to that Interconnected VoIP Provider. One Communications' database records do not include either the zip code or the account number of the interconnected VoIP provider's end user. Until additional information is collected from its interconnected VoIP providers' customers and recorded by One Communications, One Communications as well as other similarly-situated carriers, will only be able to validate on one field which will inevitably introduce errors to the porting process. One Communications is currently working to modify the records it maintains for its interconnected VoIP provider customers but requires an extension of time until July 31, 2008, to complete the database upgrade and to obtain the necessary data. All of this should come as no surprise to the Commission as the *Declaratory Ruling* specifically recognized that "carriers' legacy systems might be designed to validate port requests on a range of different information...."<sup>18</sup>

For One Communications to begin validating port requests using only the four fields specified, it has undertaken an enormous database redesign of its current system. Until the system modification is completed, One Communications must operate in manual mode. Furthermore, One Communications must obtain and input the data associated with the end users of its interconnected VoIP providers' customers for the remaining three fields from its VoIP providers, since it currently only tracks the 10-digit telephone number data. As pointed out in this proceeding, "the local number porting process requires careful and precise communication between multiple carriers, the implementation of any significant changes to that process must be carefully coordinated between the [local exchange carrier] and other carriers that submit porting request to that [local exchange carrier]."<sup>19</sup> The fact that the holiday season fell between the

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<sup>18</sup> *Declaratory Ruling* at ¶ 46.

<sup>19</sup> Comments of the United States Telecom Association, WC Docket No. 07-244 *et al.*, at 2 (filed Jan. 30, 2008).

release date of the *Declaratory Ruling* and the deadline for compliance only complicated what would have been a nearly impossible task for One Communications.

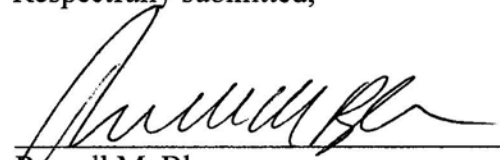
Grant of this limited waiver would result in minimal harm to One Communications' customers seeking to port their number. Indeed, One Communications' current validation system ensures that inadvertent or incorrect ports do not occur, thus allowing One Communications to perform its ports effectively, efficiently, and timely, without harm to the end user.

#### IV. CONCLUSION

For the reasons stated herein, One Communications respectfully asks that the Commission clarify that carriers may request data in addition to the four fields to accomplish a simple port, and a port on a loop provisioned over a UNE is not a simple port. One Communications also respectfully requests that, consistent with the requests of other industry participants such as USTA, the Commission grant it a limited waiver and extension of time until July 31, 2008 to comply with the *Declaratory Ruling*.

Respectfully submitted,

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